

MICHAEL M. DE ANGELI, P.C.
ATTORNEY AT LAW
60 INTREPID LANE
JAMESTOWN, RHODE ISLAND 02835
(401) 423-3190

RECEIVED
CENTRAL FAX CENTER
FEB 17 2006

REGISTERED PATENT
ATTORNEY

ADMITTED TO BARS
OF PA & MD
NOT ADMITTED IN RI

FAX: (401) 423-3191
E-MAIL: MDEANGE@COX.NET

FACSIMILE TRANSMISSION

To: Examiner Richard Shaffer
US PTO, Art Unit 3733

Fax Number: 571-273-8300

Date: February 17, 2006

Re: Ser. No. 10/806,188

Total Pages (including this sheet): 3

Dear Examiner Shaffer:

Attached is a response to the Restriction Requirement in this case. Please call if I may be of assistance.

Very truly yours,

Michael de Angeli

RECEIVED
CENTRAL FAX CENTER
FEB 17 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of :

Dallara et al : Examiner: Shaffer
Serial No.: 10/806,188 : Group Art Unit: 3733
Filed: March 23, 2004 : Att. Dkt.: LINV-231
For: Dilator for Bone Tunnels :

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the restriction requirement expressed in the Office Action mailed February 6, 2006, setting a one-month period for response, Applicants hereby elect the claims of Group I for initial examination, with traverse as below, and elect the species of Fig. 3 for prosecution in the event no generic claim is allowed.

As mentioned, the restriction requirement is traversed. Claims 1 - 10, the Group I claims, are drawn to an apparatus for dilating the wall of a tunnel in bone, while claims 11 - 13 are drawn to the method for its use, and indeed include essentially all of the limitations of claim 1. As the Examiner notes, it would at least be theoretically feasible to use the tool of claims 1 - 10 for other purposes. However, it would be impossible to do a meaningful search for art relevant to the method of claims 11 - 13 without searching for the tool of claims 1 - 10. Accordingly, it is respectfully submitted that the Examiner will not be unduly burdened by acting on both sets of claims in a single application, especially given the additional burden to applicants in prosecuting two separate applications to patent, which is very substantial. Simply adding up the filing, search, examination, issue, and maintenance fees, prosecuting a second application will cost a minimum of \$9,400.

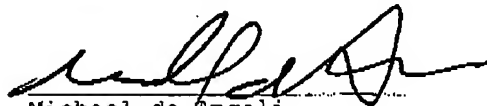
Accordingly, it is respectfully requested that the restriction requirement be withdrawn and all claims be examined in a single application.

As noted by the Examiner, claim 1 now is generic to the three species identified, that is, as corresponding to Figs. 3 - 5, 6 and 7, and 8 - 10 respectively. The species of Figs. 3 - 5 is elected if no generic claim is held allowed. Claims 1 - 5 and 7 - 13 include this species.

Withdrawal of the restriction requirement and favorable action on the merits are earnestly solicited.

Respectfully submitted,

2/17/06
Dated


Michael de Angeli
Reg. No. 27,869
60 Intrepid Lane
Jamestown, RI 02835
401-423-3190